

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	20cr608 (DLC)
-v-	:	
	:	<u>ORDER</u>
AQUILINO TORRES,	:	
	:	
Defendant.	:	
-----X	:	

DENISE COTE, District Judge:

On May 18, 2021, Aquilino Torres made an ex parte application, pursuant to Rule 17, Fed. R. Crim. P., for the issuance of a subpoena to Safe Horizon. The subpoena seeks, without any temporal or subject matter limitation, "all records," including "progress notes and status updates" and "psychological, psychosocial, and/or psychiatric evaluations and assessments," associated with an alleged victim in this case.

Rule 17 instructs that a "subpoena requiring the production of personal or confidential information about a victim may be served on a third party only by court order" and that "[b]efore entering the order . . . the court must require giving notice to the victim so that the victim can move to quash or modify the subpoena or otherwise object." Fed. R. Crim. P. 17(c)(3). While Torres claims that "[u]pon the issuance of the requested subpoena," he "will provide a copy of the subpoena to the alleged victim," he has not yet done so. Additionally, some of

the requested records may be protected by the psychotherapist-patient privilege. See In re Sims, 534 F.3d 117, 131 (2d Cir. 2008) ("[C]onfidential communications between a licensed psychotherapist -- including a licensed social worker engaged in psychotherapy -- and his or her patients in the course of diagnosis or treatment are protected from compelled disclosure under [Fed. R. Evid. 501]."). Accordingly, it is hereby

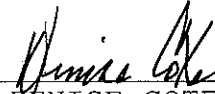
ORDERED that the May 18 application is denied.

IT IS FURTHER ORDERED that Torres shall arrange to provide a copy of the proposed subpoena and this Order to the alleged victim.

IT IS FURTHER ORDERED that Torres, the alleged victim, and if necessary, the Government shall confer regarding the proposed subpoena. Torres shall by **May 26th, 2021 at 2 pm** advise the Court whether he intends to renew his application for a subpoena. If he intends to renew the application, Torres may include with the renewed application a proposal for in camera review of documents responsive to the subpoena or such other procedures as are appropriate in the circumstances to address any objections he has received from the alleged victim.

IT IS FURTHER ORDERED that if Torres renews the application, the alleged victim shall have two business days after the filing of Torres' renewed application to make any objections to the subpoena.

Dated: New York, New York
May 19, 2021



DENISE COTE

United States District Judge